

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

)
DEKALB COUNTY, FULTON COUNTY,)
and COBB COUNTY, GEORGIA,)
)
Plaintiffs,)
)
v.) CIVIL CASE NO.:
HSBC NORTH AMERICA HOLDINGS) 1:12-cv-03640-SCJ
INC., ET AL.,)
)
Defendants.)
)

[PROPOSED] SCHEDULING ORDER

Upon review of the information contained in the Joint Preliminary Report and Discovery Plan (the “Plan”) [ECF No. 30] and the scheduling conference held on January 8, 2013, the Court orders that the Plan is hereby amended to assign this matter to an 11-month bifurcated discovery track, which commences on the date of this Order, as follows:

- 1) The Parties shall engage in 3 months of limited discovery to resolve whether the statute of limitations has expired for the cause of action alleged in the Complaint as follows:

- a. Within 1 week of the date of entry of this Order, Plaintiffs shall file affidavits establishing the date on which the facts supporting the claim alleged in the Complaint were discovered or could have been discovered through the exercise of reasonable diligence;
- b. Within 1 month of the date of this Order, Defendants shall propound written discovery regarding the date on which the facts supporting the claim alleged in the Complaint were discovered or could have been discovered through the exercise of reasonable diligence, to which Plaintiffs shall fully respond within 4 weeks of receipt. Defendants shall, within 3 months of the date of this Order, depose the affiants and any other persons with such knowledge;
- c. Within 4 months of the date of this Order, Defendants shall file a Motion for Summary Judgment focused only on the question whether the Complaint is time-barred because the facts supporting the claim alleged were discovered or could have been discovered through the exercise of reasonable diligence prior to October 18, 2010;
- d. Plaintiffs shall have 21 days after the date the motion is filed to oppose;

- e. Defendants shall have 14 days from the date a response is filed to file a reply, if any.
- 2) The Court need not consider or resolve the issue of proper parties unless and until Defendants' Motion for Summary Judgment is denied. The Parties shall address the issue of proper parties as follows:
 - a. Defendants filed a declaration on January 25, 2013, identifying the entities engaged in residential mortgage lending in the Plaintiffs' counties at any point since 2004. *See Declaration of Phyllis I. Johnston [ECF No. 16-13].*
 - b. If the Court denies Defendants' Motion for Summary Judgment, Defendants shall, within 1 week of the date of such Order, file a limited Motion for Judgment on the Pleadings to resolve the legal questions surrounding the issue of proper parties—chiefly, whether entities not engaged in residential mortgage lending are properly named as defendants in a lawsuit advancing a single cause of action under the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*
 - c. The Parties shall also confer within 1 week of such Order regarding fact discovery, if any, necessary to resolve whether the entities previously identified by Defendants accurately reflect the HSBC

entities engaged in residential mortgage lending in Plaintiffs' counties.

- d. Plaintiffs shall propound any such discovery within 2 weeks of such Order, to which Defendants shall fully respond within four weeks of receipt.
 - i. Plaintiffs shall oppose the Motion for Judgment on the Pleadings within 2 months of such Order.
 - ii. Defendants shall have 14 days from the date a response is filed to file a reply, if any.

3) Initial Disclosures: Defendants shall file their Initial Disclosures within 30 days of the Court's Order on Defendants' Motion for Judgment on the Pleadings.

4) Merits Discovery: Merits discovery shall last a total of 8 months and be bifurcated into two phases: (i) Injury/Causation; and (ii) Liability.

- a. The Parties shall meet and confer within 14 days of this Court's Order on Defendants' Motion for Summary Judgment and propose to the Court within 21 days of the Order on Defendants' Motion for Summary Judgment appropriate discovery deadlines within that period.

- 5) Electronic Data: The Parties recognize that an extensive amount of electronic data likely will be discoverable. The Parties also recognize that while the manner, means, and form of production will depend upon the nature of such data and the manner in which it is stored and used, such production shall be produced in accordance with the Federal Rules.
- 6) Discovery Dispute(s): The Parties shall confer regarding any discovery disputes and make a good faith effort to resolve those disputes prior to contacting the Court for guidance in resolving the disputes. The Parties shall contact the Court for guidance prior to filing any motions regarding discovery disputes.
- 7) Confidentiality Order: The Parties will present a proposed Confidentiality Order governing the confidentiality of discovery responses and testimony.

SIGNED on this the _____ day of January, 2014.

The Honorable Judge Steve C. Jones
United States District Court
Northern District of Georgia

Respectfully submitted:

/s/ Therese G. Franzén

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